

Mr. M. L. Smith

from

Homel Cobb

REMARKS

OF

MR. COBB, OF GEORGIA,

DELIVERED

IN THE HOUSE OF REPRESENTATIVES, JANUARY 14, AND 18, 1844.

On the motion of Mr. BLACK, of Georgia, to amend the motion of Mr. DROMGOOLE, of Virginia, to recommit the Report of the Select Committee on the Rules, by instructing them to report to the House the following Rule, viz :

"No petition, memorial, resolution, or other paper praying the abolition of slavery in the District of Columbia, or any State or Territory, or the slave-trade between the States or Territories of the United States in which it now exists, shall be received by this House, or entertained in any way whatever:"

Mr. COBB rose and said—

Mr. SPEAKER : When the amendment now under consideration was first offered by my colleague, [Mr. BLACK,] I regretted that he had done so, believing that the object contemplated by the friends of the measure could be better effected after the second report of the committee, if the motion of the gentleman from Virginia, [Mr. DROMGOOLE,] to recommit the report should prevail. But as it is now evident that the vote about to be given by the House upon the proposed instructions to the committee will finally settle the question as to the continuance of the present rule of the House, familiarly known as the 21st Rule, I must ask the indulgence of the House whilst I present some of the reasons which induce the vote I am about to record.

I cannot agree with some gentlemen who have preceded me in the discussion of this subject, that we are to abandon all hope of retaining a rule, from the salutary influences of which the country has derived so many advantages, and which has heretofore received the sanction of this House on more than one occasion. I will at least indulge the fond hope that the South is still to continue in the enjoyment of those benefits which the existence of this rule is so well calculated to guaranty to her.

Whilst I agree in the main with the arguments presented with so much ability by the gentleman from South Carolina, [Mr. RHETT,] and the gentleman who has just taken his seat, [Mr. BELSER,] I cannot but express

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the deep regret with which I listened to the concluding remark of the former gentleman, when he expressed the conviction resting upon his mind, that there now existed in the Southern States, and was rapidly growing, an increasing disaffection to the Union. Sir, I disavow the sentiment for the State I have the honor in part to represent upon this floor. So far as I have been enabled to form an opinion of the feeling which pervades the Southern people—the people of Georgia more particularly—their attachment and devotion to the Union of their fathers “grows with their growth, and strengthens with their strength.” That attachment is based upon a conviction upon their part that the whole of this Union—the North, the East, and the West—will continue to guaranty to them those rights and privileges which they have so long enjoyed under the Constitution and its compromises; and I sincerely trust that there never may be any just cause to destroy this conviction, or weaken this confidence.

We are asked to repeal this rule, upon the ground that it conflicts with the right of petition as recognised in the first article of the Amendments to the Constitution, and upon this ground alone; the advocates of the measure here disclaiming any sympathy of feeling with the petitioners and their prayers, and avowing that they are prepared, and even anxious for an opportunity to place the seal of their condemnation upon the unholy and revolutionary prayers of these wild fanatics. Surely, then, if their judgments can be convinced that a refusal on the part of this House to receive these petitions does not infringe upon the right of petition, as secured to the People of the United States by the Constitution, we may confidently rely upon their co-operation in continuing a rule to the existence of which we attach the utmost importance.

One of the fundamental rules for the construction of statutes, as recognised in our law books, to wit: to consider the old law, the mischief, and the remedy, will often aid us in arriving at a proper construction of our Constitution, and peculiarly so the provision now under consideration. Having taken much of the model and many of the principles of our Government from that of the mother country, our minds are almost involuntarily directed to the grievances endured by our fathers under the English Government, to account for some of the peculiarities of our own; and thus it is, when we come to consider the necessity for incorporating in our Constitution a prohibition for the passage of any law that shall interfere with “the right of the people peaceably to assemble, and to petition the Government for a redress of grievances,” we are irresistibly drawn to a contemplation of the famous and odious “Riot Act,” which so long disgraced the statute-books of England.

Under its provisions, the people were not permitted to assemble together for the purpose of counselling with each other about the heavy burdens and oppressions under which they might be suffering, but were liable to be dispersed at a moment's warning, under certain and severe penalties. Nor were they allowed the humble privilege of incorporating their sufferings in the form of a remonstrance or petition to the sovereign or legislative powers, without incurring the risk of being subjected to punishments inflicted only upon malefactors and felons.

These truths had been witnessed and realized by our fathers; and their wisdom and foresight induced them, in the formation, or rather in completing the formation of our Constitution, to throw around these inesti-

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mable rights of the people such guards as would forever protect them from similar invasions. They have done so in the clause of the Constitution which we are now considering. Our people peaceably and quietly assemble, whenever and wherever they please, and "there is none to molest or make them afraid." If suffering under the weight of wrongs, or afflicted with grievances, they embody the result of their reflections and deliberations in remonstrances or petitions, as to them may seem fit; not apprehending, nor having cause to apprehend, prosecutions and punishment for this free and unbiased exercise of their constitutional rights.

I will not, Mr. Speaker, longer consume the time of the House upon this branch of the subject, after the very lucid and elaborate argument of the gentleman from South Carolina, [Mr. RNETT,] upon this point, a day or two since.

Now, sir, I cannot yield my assent to the doctrine contended for by gentlemen, that this great right of petition, which was held so dear and sacred by our wise and patriotic fathers as to require an express guaranty of its uninterrupted enjoyment in the Constitution, is to be construed into the poor and pitiful boon of asking this or the other branch of the National Legislature simply to receive the petitions of the people. No, sir; the feelings which filled their bosoms and actuated their conduct were "higher, purer, nobler." It was to wrest from the Government the power, in anticipation of its assumption, of passing any law by which the people should be prevented from meeting together in their deliberative assemblies, freely and fearlessly discussing the conduct and action of their representatives and agents, and, if necessary, presenting the result of their deliberations, in the form of a petition or remonstrance, to any department of their Government.

Viewing the right of petition in this light—in connexion with the plain and palpable causes which led to its constitutional recognition—and I can contemplate it with pride and gratitude; and to its maintenance and perpetuity, I am prepared freely and cheerfully to pledge whatever of energy and ability I may possess. But, sir, when you attempt to force it down from this high and lofty eminence, to the humiliating privilege of requesting this House to receive a petition, lay it upon your table, and there, unnoticed, to moulder and ruin, I repudiate it as utterly worthless, and beneath the regard of freemen.

When the people had thus assembled, and embodied their sentiments in a petition, and had presented such petition, their rights as petitioners ceased; and the same Constitution, under which they had exercised their rights, imposed an equally solemn duty upon another body of men—I mean, sir, the House of Representatives or the Senate, as the case may be—a duty the responsibility of which could not be thrown off upon the petitioners, but must be assumed and discharged by the proper tribunal. And now, sir, what is that duty? And what is the first step to be taken in the exercise of it? Will gentlemen still insist that the rights of the petitioners require its reception? Or will they not agree with us in saying that this is the first question to be determined? Otherwise, and there would be no mode of avoiding the reception of any and all petitions, no matter how disrespectful or uncourtous, in language, or condemnatory in the object proposed to be accomplished. Let me not be told that the

self-respect of members would be a protection against such an abuse ; for if the right existed to the extent here contended for, individual members would be no more authorized to refuse the application of their constituents to present their petitions, than the House would be to refuse their reception. Besides, sir, the experience of the past admonishes us that this would be a frail reliance. The practical effect of the doctrine thus carried out, ought to be a sufficient exposition of its fallacy, and should carry conviction to every mind brought to its investigation, relieved of the prejudices and improper influences thrown around it by an unwise disposition on the part of gentlemen to yield to the claims of rabid fanaticism.

The course of argument pursued by some of those who have addressed the House against the proposed instructions to the Committee, induces me to believe that they have not looked sufficiently far into the future to a correct understanding of this question in all its bearings. They are unwittingly deceiving themselves, and are thereby falling into an error, from which they can only retrieve themselves by a formal surrender of the entire ground heretofore occupied by the friends of the South. And let me invite to the candid consideration of this branch of the subject, the careful attention of that portion of the Northern Democracy, more particularly those who have heretofore stood by us in the hour of trial, and manfully breasted the storm that was raging around them, with a devotion and firmness which has commended them to our warmest gratitude and admiration. It is a part of the argument that I approach with reluctance, as it may, perchance, be considered as putting into the mouths of the abolitionists an argument sanctioned by our approval, to be handled by them against our friends, when they shall have returned to their constituency, after having rescinded this rule, (should such be the unfortunate result of our action,) and having adopted in its stead some other regulation, less efficacious in the protection of our peculiar interest, and not more acceptable to the clamorous advocates of the right of petition. But a sense of duty requires that we should leave no effort untried, no argument unheard, that may tend to awaken proper reflection upon the many difficulties which must inevitably meet us upon the repeal of this much-abused rule.

What, then, is the proposition of our friends, as contained in their arguments, though not reduced to any regular form ? It is, in substance, that we shall receive these petitions, (which are now excluded by the operation of the rule,) and lay them upon the table, without being read, considered, referred, or in anywise acted upon ; thus satisfying the demands of the Constitution, and forever afterwards separating the question of abolition from the right of petition. Will such be the effect of your action ? I fear not. When gentlemen shall have repealed this rule, and adopted in its place such a one as I have just referred to, and returned from this Hall to their constituents, they will in vain seek for that approving welcome which they are now so fondly anticipating for themselves at the hands of those whose great regard for the constitutional right of petition is now driving them to this unwise course of action. Deceive not yourselves, gentlemen, with the belief that the proposed substitution of your rule for the one now sought to be repealed will satisfy those to whose demands you are now submitting. On the contrary, you will be met with

one response from all sections of the country where this feeling exists : "It is true you have granted us the form of our rights, but at the same time denied us the substance ;—you receive our petitions, but your ears are closed against them—you will not listen to our grievances ; we present to you arguments for your reflection and consideration, but they are silently and wrongfully laid upon your table, as unworthy of your notice and attention." Where is your answer ? What is to be your reply to these new complaints, which will rise up against you upon the repeal of this rule, as certainly as the setting of the sun succeeds the rising thereof. You have yielded your first and only true position, that the right of petition has never yet been violated, or in the least infringed ; and having done so, you must necessarily be placed at the mercy of these men, to be driven by them to whatever point they may think proper to require you to go. And it is to this view of the subject that I desire more particularly to direct the attention of the House.

The proposed alteration of the rule, so far from allaying, will have the effect of increasing the excitement which now agitates the public mind. These disturbers of the public peace and quiet will be inspired with a new zeal, derived from the partial success attendant upon their previous efforts, which have heretofore proved so powerless and unavailing ; you will attach to them and their cause an importance of which you admit they are utterly undeserving ; you give to them additional strength in the efforts to destroy and annihilate their influence ; their anxiety in the prosecution of their hellish work will be doubly and trebly enhanced ; and what must be the inevitable result ? At the opening of the next Congress their voice will again be heard through their mouth-pieces in this Hall, demanding at your hands another concession : "You have received our petitions, but with that we are not content ; you must read them, and at least hear what we have to complain of." The same course of argument now adopted, the same feeling now controlling the conduct of members, will induce, yea, compel the grant of this additional demand ; and thus, sir, will the matter continue to proceed—each concession followed in more rapid succession by another, until the whole ground, now so gallantly won and nobly occupied by the true friends of the South, will be surrendered to the increasing requisitions of our worst and bitterest enemies. But a few sessions will have transpired, and abolition petitions will be regarded with the same respect, and be carried through the same forms, as those of the most respectable and honorable character. Hence, sir, the South considers, and correctly, too, that the time has now arrived when a choice must be made between these two extremes : the entire rejection of all such petitions on the one hand, and, on the other, not merely their formal reception, but also their reference, consideration, and final action thereon. And can she for a moment hesitate in making her selection ? Gentlemen will attempt in vain to place this question upon compromise ground. It cannot be done. There is no neutral ground, no half-way house, that can be long occupied with either credit or safety to the parties interested.

I am aware that the argument I am attempting to present will not reach the judgment of those who have always opposed, not only this, but every other rule which has been adopted by Congress for the protection of Southern feeling and Southern interest. I had not flattered myself with the least hope of altering their long-settled decision. My object is,

possible, to retain the aid of those who have heretofore co-operated with us, and whose devotion to our interest I feel confident yet remains unimpaired. To *them* I trust the appeal will not be in vain.

Let me then ask the gentleman from Pennsylvania, [Mr. BIDLACK,] who addressed the House a day or two since on this subject, and others who, like him, have always been our friends on former occasions, and who have even at this session voted with us against the repeal of the 21st rule, if they are now prepared to sacrifice all the advantages of a long and eventful struggle over this subject, and ally themselves with the advocates of the opposite extreme to which I have just alluded, merely for the purpose of avoiding the effects of a false issue—known and admitted to be such? I can safely answer for these gentlemen in the negative; and if so, may we not successfully ask of you to reconsider the reasons which have induced you to favor this dangerous concession? Sooner or later you will be compelled to choose between the two extremes placed before us for our selection, and the present moment presents the most favorable opportunity of making the decision. It is rejection on the one hand—action on the other.

The South has not been an indifferent observer of the movements in the non-slaveholding States on the subject of the right of petition. She has noticed with regret the effort, but too successfully made, to connect it with abolition, and thereby cause it to subserve the purpose of these fanatical spirits, in creating a false issue before the people, from which they are seeking to gain additional strength and factitious importance; and if there was any mode by which she could relieve her Northern friends from its effects, consistently with her own honor and safety, most cheerfully would she do it.

But our Northern friends must perceive at a moment's glance that false issues upon this, as upon every other subject, must be met and overcome where they are found to exist. It is a duty which they owe not only to the South, but to themselves, to rise above these, by exposing to the honest and enlightened portion of their constituents, this unjustifiable effort to prostitute a great constitutional right to the worst and vilest purposes. Such has been the course pursued by others; and the result is as creditable to the honesty and intelligence of the people, as it is gratifying to the feelings of the South. For the purpose of illustrating this truth, I will refer to facts which are familiar in part to the House, and in which, if I am wrong, I can be easily corrected. My friend on my left [Mr. WELLES] is the Representative of a district in the non-slaveholding State of Ohio; from the first inception of this subject he has met it with a manly and noble spirit, which reflects upon him the greatest credit, and which, I am proud to say, is duly appreciated by those whose interest he has thus guarded and protected with such disinterested devotion; not only in this Hall, but before his constituents, has he grappled with the false spirit, in every shape and form in which it might present itself. On my right is another gentleman, from the same State, [Mr. GIDDINGS,] who has always given a cheerful response to every requisition of the abolitionist, and in whom they have ever found a sympathizing Representative, as scrupulously conscientious about the right of petition as the wildest and most visionary fanatic could desire. Now, sir, what has been the necessary consequence in their respective districts? Whilst the district repre-

sented with so much honesty and ability by my friend, is almost pure and untainted by this foul infection, the district represented by the gentleman upon my right is rotten to the core. Permit me, then, to commend to our Northern friends the praiseworthy example of my friend from Ohio; and I hesitate not to promise them that the same happy results will attend similar exertions on their part.

The gentleman from North Carolina [Mr. CLINGMAN] seemed to think we had placed our Northern friends in a false position, and that it was the duty of a wise General, when he found his men falling, one by one, under the fire of the enemy, to withdraw them from their exposed location to a place of greater security. Now, sir, I am not sure that I understood correctly the allusion of the gentleman; if, however, he referred to *his* political friends, I have only to say to him that he will meet with some difficulty in finding *any of them* in the list of killed and wounded. The devotion of Northern Whigs to Southern interest has never yet induced them to occupy this dangerous and exposed position; that honor has been reserved for the Democracy, and the Democracy alone. If the gentleman alluded to the Northern Democrats, who had evinced, by their votes and conduct upon this subject their sincere friendship for the South, then I must be permitted to say to our Northern friends, hearken not to the voice of the gentleman from North Carolina; and as you would not heed his counsel upon other great and important subjects of a political and national character, so also reject the proffered advice upon this equally vital and interesting question. Had the gentleman from North Carolina, and Southern members generally, listened to the remarks of the gentleman from Pennsylvania? [Mr. BIDLACK:] one who has heretofore been with us, through evil as well as through good report, but now felt that he was no longer bound to stand by an unpopular measure for the benefit of the South alone, when the South herself was manifesting a disposition to abandon the rule. Thus it is, that the defection of our Northern friends is attributable to our own divisions. Let the fact, then, be published to the country, that the responsibility of this measure may rest upon those who justly deserve it; upon whom an indignant and outraged people may place the seal of their condemnation. I trust, however, that no such division will be found to exist; no Southern Democrat, I am sure, will abandon his post; and but few, if any, of the Southern Whigs will be found following in the wake of the gentleman from North Carolina. It has been said that the abandonment of this rule was growing in favour with the South. Where is the evidence of it? How many Southern Representatives, who have heretofore voted with the gentleman from Massachusetts [Mr. ADAMS] and the gentleman from Ohio [Mr. GIDDINGS] on this delicate and all-absorbing question, had been returned again by their constituents as members of this House? Let those who are laboring under this false delusion, answer me the question. No, sir, votes given in that connexion will not answer the demands of the South; the South is unwilling to trust her rights in that quarter; she would fear the result, and well she might.

The gentleman from North Carolina, in the course of his remarks, had alluded to the times when Adams and Hancock, and their compeers, from every section of the country, had met together, and, as brethren, counselled one with another, having but one object in view—the best interests of their

common country. There is no difficulty in returning to those happy days of union and harmony, if we will only permit the same spirit which pervaded the bosoms of the venerated dead to enter into our deliberations and control our actions. They, sir, maintained their respective rights with an unflinching energy and an unyielding firmness, that was only surpassed by the magnanimity with which they accorded to others the same boon they claimed for themselves. No gentleman would be more gratified than myself to see that feeling manifesting itself in every portion of this House, upon this and all other interesting and important subjects; nor would it long be confined within the narrow limits of these walls, but, breaking over every barrier, through a thousand different channels it would penetrate every portion of the Union, scattering in its train all the blessings attendant upon union, harmony and brotherly love. Whilst such are the ardent aspirations of my soul, yet a sense of duty, and the deep responsibility resting upon me as one of the Representatives upon this floor of the peculiar interests of the South, requires me to say to our Northern friends, that we cannot overleap the boundary of this commendable example of our fathers; in our anxiety to do justice to others, we cannot, we dare not, forget what is due to ourselves.